

SEP. 15. 2010 3:36PM M. M. A 9739943375

NO. 0169 P. 3/5

Conte, J

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In Re:

G.M. CROCETTI, INC.,

Debtor.

G.M. CROCETTI, INC.,

Plaintiff,

v.

TRATAROS CONSTRUCTION, INC. and
TRAVELERS CASUALTY AND SURETY
COMPANY,

Defendants.

TRATAROS CONSTRUCTION, INC. and
TRAVELERS CASUALTY AND SURETY
COMPANY,

Third Party Plaintiffs,

v.

DORMITORY AUTHORITY - STATE OF NEW
YORK; TDX CONSTRUCTION CORP.; KOHN
PEDERSEN FOX ASSOCIATES, P.C.; CAROLINA
CASUALTY INSURANCE COMPANY; BARTEC
INDUSTRIES INC.; DAYTON SUPERIOR
SPECIALTY CHEMICAL CORP. a/k/a DAYTON
SUPERIOR CORPORATION; ZURICH AMERICAN
INSURANCE COMPANY; ASSURANCE
COMPANY OF AMERICA; OHIO CASUALTY
INSURANCE COMPANY; HARLEYSVILLE
INSURANCE COMPANY OF NEW JERSEY; JOHN
DOES 1-20 and XYZ CORPS. 1-20.

Third Party Defendants.

Case No. 08-CV-6239 (DLC)
ECF CASE

Bankruptcy Case No. 07-10319 (BRL)

**STIPULATION OF
DISCONTINUANCE AS TO
THIRD-PARTY CLAIMS
AGAINST OHIO CASUALTY
INSURANCE COMPANY**

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED

LAW #: _____

FILED: 9/17/10

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WHEREFORE the within action was previously consolidated for discovery purposes only with a prior civil action entitled Travelers Casualty and Surety Company, et al. v. Dormitory Authority - State of New York, et al., Case No. 07-CV-6915 (DLC) (the "Travelers Action"), and

WHEREFORE the Second Amended Third-Party Complaint, alleging claims against Ohio Casualty Insurance Company ("Ohio Casualty") *inter alia*, was filed in the within action by Trataros Construction, Inc. ("Trataros") and Travelers Casualty and Surety Company ("Travelers") on or about November 28, 2008, and

WHEREFORE, on or about February 19, 2010, Ohio Casualty filed a motion for summary judgment in the Travelers Action, on grounds of alleged lack of coverage under certain policies of insurance, and said motion having been ruled upon by this Court in an Opinion and Order entered on or about July 30, 2010 (the "Order"), and

WHEREFORE, the parties to the within action have consented and stipulated to the consolidation of the trial of within action with the trial of the Travelers Action, therefore it is

STIPULATED AND AGREED by and between the attorneys for the undersigned parties to the within action that the third-party claims alleged by Trataros and Travelers in the within action against Ohio Casualty are hereby discontinued without prejudice only to the extent of and so as to conform with the Order entered by the Honorable Denise L. Cote, U.S.D.J., disposing of Ohio Casualty's motion for summary judgment on coverage grounds in the Travelers Action, and without costs and fees to any party; and it is further

STIPULATED AND AGREED that this Stipulation may be executed in counterparts, and

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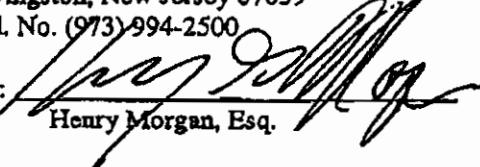
that for purposes of this Stipulation, facsimile signatures will have the same effect as original signatures.

DATED: September 14, 2010

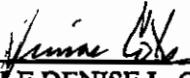
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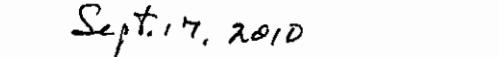
By: 
JoAnne M. Bonacci, Esq.

MORGAN MELHUISH ABRUTYN
Attorneys for Third-Party Defendants,
Ohio Casualty Insurance Company
651 West Mount Pleasant Ave., Suite 200
Livingston, New Jersey 07039
Tel. No. (973) 994-2500

By: 
Henry Morgan, Esq.

SO ORDERED:


THE HONORABLE DENISE L. COTE, U.S.D.J.


Sept. 17, 2010